

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday September 1, 1999

DIVISION ONE

A083200 -- The People v. Dale L. Mark.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A085130 -- The People v. Frederick Marlin Shumate.

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

DIVISION FOUR

A086483 -- Elizabeth H. v. The Superior Court of Contra Costa County; Contra Costa County Social Service Department, R.P.I.

The order setting a selection and implementation hearing complies with governing law and is supported by substantial evidence. The petition for an extraordinary writ is denied on the merits. (§ 366.26, subd. (l) (l); Cal. Rules of Court, rule 39.1B(o).) Our decision is final immediately. Reardon, J. We concur; Sepulveda, J., Poché, Acting P.J. (Not for Publication.)

A085815 -- In re Tanietsa T., a Person Coming Under the Juvenile Court Law.

Judgment affirmed. Reardon, J. We concur: Poché, Acting P.J., Sepulveda, J. (Not for Publication.)

Wednesday September 1, 1999 (continued)

DIVISION FIVE

A085477, A085482, A085486, A085488, A085495, A085496, A085501, A085502, A085761 -- The Hartwell Corporation et al., v. The Superior Court of Ventura County; Kristin Santamaria et al, R.P.I.

In summary, the four actions are preempted insofar as they seek remedies against regulated utilities. They are not preempted, however, insofar as they state causes of action the nonregulated water providers and industrial defendants. The Los Angeles courts erred in staying all proceedings instead of ruling on the various demurrers. The courts should have sustained the demurrers of the regulated utilities and overruled those of the unregulated water providers and industrial defendants. The Ventura County Superior Court ruled correctly in all respects.

Let peremptory writs of mandate issue against the Los Angeles County Superior Court, compelling it to vacate its stays in the Adler, Boswell and Celi actions, to reconsider the demurrers filed in these actions, the motion for summary judgment filed in the Boswell action, and motion for judgment on the pleadings in the Adler action, and to enter new orders consistent with the views expressed herein. The Los Angeles Superior Court is further instructed to reconsider its stay of these actions as to parties other than the regulated utilities in light of the new circumstances removing the regulated utility defendants from these cases. However, we state no opinion on how the court should exercise its discretion. The orders to show cause in Action Numbers A085477 and A085496 are discharged, and the petitions for writ of mandate are denied. The plaintiffs are to bear the costs incurred in this court by the regulated utility defendants in their cases. All nonregulated water providers and industrial defendants who have appeared in this court by brief or joinder are to bear the plaintiffs' costs in this court, jointly and severally, unless they all stipulate to a better formula. Jones, P.J. We concur: Haning, J., Stevens, J. (Certified for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, September 1, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness, P.J., Corrigan, J., Parrilli, J., and I. Calanoc, Deputy Clerk.

A083524 Heng Chi Hung,

v.

Mark Mahoney, et al.

Cause called and argued by Scott Dunning, counsel for appellant, and Hajime Tada, counsel for respondents. Cause ordered submitted.

A076289 Ira Eisenberg,

v.

Alameda Newspapers, Inc., et al.

The court reconstituted itself to include Justice Walker. Cause called and argued by Charles Morgan, counsel for appellant, and Kathy Banke, counsel for respondents. Cause ordered submitted. Justice Corrigan left the bench at this point.

A076953B The People,

v.

James Rivera.

Cause called and argued by Neoma Kenwood, counsel for appellant, and Deputy Attorney General Sharon Birenbaum, counsel for respondent. Cause ordered submitted.

Court Adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday September 2, 1999

DIVISION ONE

A086026 -- The People v. Johnny B. Williams.

There was no sentencing error. There are no legal issues that require further briefing. The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A085296 -- The People v. Anthony Lopez.

There was no sentencing error. There are no legal issues that require further briefing. The judgment is affirmed. Kline, P.J. We concur; Haerle, J., Ruvolo, J. (Not for Publication.)

A088179 -- Ryan Associates v. The Superior Court of San Mateo County; Edward A. Oates, et al., R.P.I.

By the Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

A088173 -- Liberty Valley Doors, Inc. v. The Superior Court of San Mateo County; Ryan Associates, et al., R.P.I.

By the Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

Thursday September 2, 1999 (continued)

DIVISION FOUR

A085303 -- The People v. Kerri Lemay Delorenzo.

The judgment is affirmed. Sepulveda, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

DIVISION FIVE

A083422 -- The People v. Robert E. Davis.

We affirm the judgment. Jones, P.J. We concur; Haning, J., Stevens, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Thursday, September 2, 1999

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J., and Marchiano, J.; N. Millner, Deputy Clerk; and CHP Officer T. Tracy, Bailiff.

A085135 Thomas Hiteshew,
 v.

Cello and Maudru Construction Co., Inc., et al.
California Indemnity Insurance Company.

Cause called and argued by Clark W. Patten, counsel for appellant California Indemnity Insurance Co., and Jon B. Eisenberg, counsel for respondents. Cause ordered submitted.

A080472/ Associated Students of the City College of San Francisco,
A081725 v.

Trustees of the San Francisco Community College District.

Cause called and argued by Craig E. Stewart, counsel for Associated Students, and Gregory E. Stubbs, counsel for Trustees. Cause ordered submitted.

A072446/ Dan Briggs, et al.,
A074357 v.

Eden Council for Hope & Opportunity.

Cause called and argued by Kevin Anderson, counsel for appellants, and Mark Goldowitz, counsel for respondent. Cause ordered submitted.

A080769/ Isobel McCallion, et al.,
A84360 v.

Oakland Unified School District.

Cause called and argued by Robin B. Johansen, counsel for appellant, and David Anton, counsel for respondents. Cause ordered submitted.

A084884 Sean Ralston, et al.,
v.

Frank Myers.

Cause called and argued by Albert L. Boasberg, counsel for appellant, and
Stephen L. Collier, counsel for respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Thursday, September 2, 1999

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., and Marchiano, J.; B. Robbins, Deputy Clerk; and CHP Officer T. Tracy, Bailiff.

- A085427 The People,
 v.
 Benjamin Legree.
Cause called and argued by Lawrence A. Gibbs, counsel for appellant, and Martin S. Kaye, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A082607/
A084234 Jospeh D. Jones,
 v.
 Waremart Foods, Inc.
Cause called and argued by John Fish, counsel for appellant, and John W. Cumming, counsel for respondent. Cause ordered submitted.
- A084578 Bernard Stolar,
 v.
 Sony Computer Entertainment of America.
Cause called and argued by Jeffrey A. Snyder, counsel for appellant, and Joel S. Sanders, counsel for respondent. Cause ordered submitted.
- A076016 Patricia McColm,
 v.
 Carter Hawley Hale, Inc., et al.
Cause called and argued by Patricia McColm, appellant in pro per, via teleconference, and Bruce Nye, counsel for respondent. Cause ordered submitted.

A085004

Paul C.P. Cheng,

v.

California Pacific Bank.

Counsel for appellant having not received notice of the scheduled oral argument due to an incorrect address in the Court's docket, Acting Presiding Justice Stein continued argument to the October calendar.

Court recessed until Friday, September 3, 1999 at 9:00 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday September 3, 1999

DIVISION TWO

A083107 -- The People v. James E. Foster.

A086279 -- In re James E. Foster on Habeas Corpus.

We affirm the judgment. Lambden, J. I concur: Haerle, J. See Dissenting Opinion of Kline, P.J. (Not for Publication.)

A083679 -- The People v. Robert John Walker.

The order revoking probation is modified to reduce the restitution and parole restitution fines to \$200 each. As so modified, the order is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

A082230 -- O.S. Williams, Jr., v. William B. Miller et al.

Order Modifying Opinion and Denying rehearing [No Change in Judgment.]

By the Court: The opinion filed August 9, 1999, is modified as follows: (SEE ORDER): This modification does not effect a change in the judgment. The petition for rehearing is denied. McGuiness, P.J.

A076953B -- The People v. James Earl Rivera.

The matter is remanded for resentencing for the reasons stated in Part 2, *ante*. The judgment is otherwise affirmed. Parrilli, J. We concur: McGuiness, P.J., Walker, J. (Not for Publication.)

Friday September 3, (continued)

DIVISION FOUR

A083019 -- Reza Valiyee v. California State Department of Motor Vehicles, et al.

The Court: The request of counsel for respondent California State Department of Motor Vehicles for publication of this court's August 5, 1999, opinion is granted and it is hereby ordered that said opinion be published in the Official Reports. Poché, Acting P.J.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Friday, September 3, 1999

The Court reconvened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Swager, J, and Marchiano, J.; B. Robbins, Deputy Clerk; and CHP Officer L. Kempf, Bailiff.

- A084474 In re Andre M, et al.
 Social Services Agency,
 v.
 Marguritte S.
Cause called and argued by Alan Siraco, counsel for appellant, and Anthony E. Scarr, Deputy County Counsel, counsel for respondent. Cause ordered submitted.
- A082911 The People,
 v.
 Miltonous Q. Kingdom.
Cause called and argued by Thomas Schaaf, counsel for appellant, and John R. Vance, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A083687 San Francisco Forty-Niners,
 v.
 Naomi Nishioka, et al.;
 Douglas Comstock, et al.
Cause called and argued by James F. Sweeney, counsel for appellants, and James Parrinello, counsel for respondent San Francisco Forty-Niners, and Dennis Aftergut, Deputy City Attorney, counsel for respondent City and County of San Francisco. Cause ordered submitted.
- A083283 Judith Huff, M.D.,
 v.
 Lisa Matthews.
Cause called and argued by Josphe Baxter, counsel for appellant, and Samuel Pondolfino, counsel for respondent. Cause ordered submitted.

A084208 The People,
 v.
 Trent Lee Davis.
Cause called and argued by Eric Liberman, counsel for appellant, via
teleconference, and Lisa Ashley, Deputy Attorney General, counsel for
respondent. Cause ordered submitted.

A082285 First Commercial Bank,
 v.
 Fairfield Mortgage Partners, Ltd., et al.
Cause called and argued by Paul N. Balestracci, counsel for appellants, and
Scott Sommer, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Friday, September 3, 1999

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J., and Swager, J.; N. Millner, Deputy Clerk; and CHP Officer J. Bernal, Bailiff.

- A082496 The People,
 v.
 Alex Patrick Zaste.
Cause called and argued by Kyle Gee, counsel for appellant, and Amy Haddix, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A082958 Dennis E. Baca,
 v.
 Jeffrey Polisner, et al.
Cause called and argued by Paul Kanter, counsel for appellant, and Howard Melamed, counsel for respondent Polisner, and Paul Fife, counsel for respondent Casper et al. Cause ordered submitted.
- A081974 Oscar Dillard, et al.,
 v.
 Trailer Train, et al.
Cause called and argued by Gregory Ellis, counsel for appellants; Gerrit Wood, counsel for respondent Trailer Train; William Brasher, counsel for respondent TTX, Inc.; and Fred Blum, counsel for respondent Bethlehem Steel. Cause ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday September 7, 1999

DIVISION ONE

**A086474 -- Employers Insurance of Wausau, v. The Superior Court of
the County of San Francisco; International Paper Company et al., R.P.I.**

Order Modifying Opinion; Denying Rehearing; and Denying Publication
[No Change in Judgment.] The Court; It is ordered that the opinion filed herein
on August 11, 1999, be modified to correct a clerical error as follows. (SEE
ORDER): The petition for rehearing is denied. Real parties in interest,
International Paper Company and Masonite Corporation, are directed to serve a
copy of this order on all parties to San Francisco Superior Court Case No. 974350.
Strankman, P.J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday September 8, 1999

DIVISION ONE

A084218 -- The People v. Mark William Foster.

The two restitution fines of \$1,800 pursuant to sections 1202.4 and 1202.45 are stricken. In all other respects, the judgment is affirmed. Marchiano, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A087692 -- In re I'quell B., a Person Coming Under the Juvenile Court Law.

The challenged orders are supported by substantial evidence and do not constitute an abuse of discretion. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.) The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for October 5, 1999. Therefore, our decision is final in this court immediately. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A086044 -- The People v. Tracy L. Helms.

There was no sentencing error. There are no legal issues that require further briefing. The judgment is affirmed. Ruvalo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Wednesday September 8, 1999 (continued)

A082242 -- Stephen M. Williams v. Board of Permit Appeals, et al.

The order appealed from is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

DIVISION FIVE

A084051 -- Pamela Van Camp v. Freddie C. Johnson, as Executor, etc., et al.

The judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

A085556 -- In re Jermal H., a Person Coming Under the Juvenile Court Law.

There was no error in the dispositional process or the disposition. There are no legal issues that require further briefing. The order adjudicating appellant a ward of the court pursuant to Welfare and Institutions Code section 602 and committing him to CYA is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A085447 -- In regard to Clifton A. Brodie, on Habeas Corpus.

The order of the trial court is reversed. Stevens, J. We concur: Jones, P.J., Haning, J. (Certified for Publication.)

MINUTES

STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION ONE

A085558 -- In re Brenda F., a Person Coming Under the Juvenile

The December 23, 1998 disposition order is affirmed. Strankman, P.J. We

**A082285 -- First Commercial Bank v. Fairfield Mortgage Partners Ltd.,
et al.**

J. (Not for Publication.)

DIVISION TWO

am Allen.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J.

A084313 -- The People v. Ronald Crosley.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J.

Thursday September 9, 1999 (continued)

DIVISION THREE

A083524 -- Jeng Chi Hung, through his gaurdian ad litem, Sal Ween Hung, v. Mark Mahoney et al.

The judgment is reversed. Costs to appellant. Parrilli, J. We concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

DIVISION FIVE

A084115 -- The People v. Jose Avilez Villalobos.

The trial court shall prepare and forward to the Department of Corrections an amended abstract of judgment showing the concurrent sentence imposed on count VII as three years, the Penal Code section 12022.1 enhancement as one year, and the Health and Safety Code section 11370.4, subdivision (b)(2)) as five years. The judgment is otherwise affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
FIRST APPELLATE DISTRICT

Friday September 10, 1999

A085073 -- In re Devorah P., a Person Coming Under the Juvenile Court Law.

are affirmed. Marchiano, J.
We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A088239 -- The People of the State of California v. The Superior Court of Marin County; Darrell Hunter, R.P.I.

rit of mandate/prohibition/stay is denied.
Kline, P.J.

Friday September 10, 1999 (continued)

DIVISION FIVE

A087145 -- In re Lawrence Rudy Kirk, on Habeas Corpus.

We have determined that petitioner is entitled to relief, and that a writ of habeas corpus should be issued in accordance with the views expressed in this opinion.

“Inherent in the power to issue the writ of habeas corpus is the power to fashion a remedy . . .” consistent with what “the justice of the case may require.” (*In re Crow* (1971) 4 Cal.3d 613, 619-620, fn. 7.) Petitioner requests dismissal of all SVP proceedings against him and an order releasing him from custody. However, in light of the purposes of the SVP Act (Stats. 1995, ch. 763, § 1), the appropriate remedy in this case is not release from custody, but instruction to the trial court to vacate its probable cause finding and to promptly conduct a new probable cause hearing. (See *In re Parker, supra*, 60 Cal.App.4th at p. 1470 [granting habeas petition to the extent petitioner was found entitled to a new probable cause hearing].)

In all other respects, the petition for writ of habeas corpus is denied.

The order to show cause is discharged, and the stay previously issued in this matter will be dissolved upon the finality of this opinion as to this court. Jones, P.J. We concur: Haning, J., Stevens, J. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday September 13, 1999

DIVISION ONE

A085316 -- In re Donald N., a Person Coming Under the Juvenile Court Law.

Accordingly, the probation "gang" condition is modified to read: "Appellant is not to associate with any person known by him to be a gang member; he is not to participate in any recognized gang activities; he is not to wear any known or identified item of gang clothing, insignias, markings or colors. The term 'gang' means a 'criminal street gang' as defined in Penal Code section 186.22, subdivisions (e) and (f)." In all other respects the judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A082958 -- Dennis E. Baca v. Jeffrey D. Polisner et al.

The judgments are affirmed. Strankman, P.J. We concur; Stein, J., Swager, J. (Not for Publication.)

A085906 -- In re Malik L., a Person Coming Under the Juvenile Court Law.

Accordingly, the judgment is affirmed. Swager, J. We concur: Strankman, Stein, J. (Not for Publication.)

A082496 -- The People v. Alex Patrick Zaste.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A082911 -- The People v. Miltonous Q. Kingdom.

The judgment is affirmed. Strankman, P.J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

Monday September 13, 1999 (continued)

District.

The orders are reversed. Each party to bear its own cost on appeal.

DIVISION TWO

A085671 -- Realty Financial Resources, Inc., v. Devco Properties, Inc.

(Not for Publication.)

A085681 -- Robert Louis Kennedy v. Marshall Construction Company.

trial court granting summary judgment is reversed. Haerle,
J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A082458 -- In re Marriage of Jennifer and James Deroque.

Order Modifying Opinion and Certification for Partial
Change in Judgment.] By the Court: It is ordered that the opinion filed August
12, 1999, be modified as follows: (SEE OPINION) Good cause appearing, the

II, III, and V. Hanlon, P.J. (Certified for Partial Publication.)

DIVISION FIVE

The judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J.
(Not for Publication.)

Monday September 13, 1999 (continued)

**A084375 -- A. Peter Evans et al., v. City of East Palo Alto; RMC
Lonestar, R.P.I.**

The judgment is affirmed. Jones, P.J. We concur: Stevens, J., Marchiano,
J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday September 14, 1999

DIVISION THREE

A086487 -- The People v. Michael J. McGlothin.

There was no error in the action taken below. There are no meritorious issues to be argued. The imposition of sentence is affirmed. Corrigan, J., Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A083204 -- The People v. Michael E. Woodson.

The May 26, 1998, order finding that appellant is ineligible to petition for a certificate of rehabilitation is reversed, with instructions to determine the petition on the merits. Hanlon, P.J. We concur: Poché, J., Sepulveda, J. (Certified for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA

Wednesday September 15, 1999

DIVISION TWO

We affirm the judgment Kline, P.J. We concur: Lambden, J., Ruvolo, J.
(Not for Publication.)

The order appealed from is affirmed. Haerle, J. We concur: Kline, P.J.,

A085445 -- The People v. Aric J. Breaw.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J.,

A081647 -- The People v. Edward Simmons et al.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J.

DIVISION THREE

A082890 -- Northeast Santa Rosa Environmental Alliance v. City of

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Wednesday September 15, 1999 (continued)

DIVISION FOUR

A079430 -- Southern Pacific Transportation Company v. Santa Fe Pacific Pipelines, Inc.

We reverse the judgment. Reardon, J. We concur: Hanlon, P.J., Sepulveda, J. (Certified for Publication.)

A083159 -- Henry Daniels v. City and County of San Francisco, et al.

For all the foregoing reasons, the judgment of the trial court is affirmed. Costs to respondents. Sepulveda, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A081393 -- Eric A. Cox, Sr., et al v. Pacific Maritime Association, et al.

The judgment of dismissal is affirmed as to the first and second causes of action. The judgment is reversed as to the third, fourth, fifth, and sixth causes of action. The trial court is directed to overrule the demurrer as to those causes of action and grant defendants 20 days to answer.

Each side will bear its own costs on appeal. . Sepulveda, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

DIVISION FIVE

A085706 -- James Carter v. Russell Specter et al.

The judgment is affirmed. Costs to respondent. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Wednesday, September 15, 1999

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P. J., Lambden, J., Ruvolo, J., and I. Santos, Deputy Clerk.

A083848 The People,
 v.
 Hector Ramos.
Cause called and argued by Brian Kee Hong, counsel for appellant, and Sharon Birenbaum, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A081289 Ermias Yohannes et al.,
 v.
 Lakeshore Avenue Baptist Church, Inc., et al.
Cause called and argued by Craig Brandt, counsel for appellant, and Michael Byrne, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, J. Ruvolo left the bench and J. Haerle sat in for the remainder of the calendar.

A081867 250 Post Street Limited Partnership et al.,
 v.
 Harold Hoogasian et al.
Cause called and Mark Bonino, counsel for appellant, and Paul Scott, counsel for respondent, informed the court that there had been a settlement agreement on the case. Presiding Justice Kline told the parties to file a joint motion to dismiss within 5 days and that the court reserves the right to deny the motion with prejudice and the court may impose sanctions.

A083527 Christopher W. MacDonald et al.,
 v.
 Eric J. Lefholz.
Cause called and argued by Charles Holden, counsel for appellant, and Maria Giardina, counsel for respondent. Cause ordered submitted.

A082707 The People,
 v.
 James Owen Murdaugh.
Cause called and Kenneth Noel, counsel for appellant, was not available via teleconference. Sharon Wooden, Deputy Attorney General, counsel for respondent, was present in the court. Argument waived; cause submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J., Lambden, J. and I. Santos, Deputy Clerk.

A084405 Edwin Davidson,
 v.
 City of Oakland et al.
Cause called and argued by Sheila Reid, counsel for appellant, and Ines Fraenkel, counsel for respondent. Cause ordered submitted.

A083052 The People,
 v.
 Ramero Darnai Russell.
Cause called and argued by Denise Kendall, counsel for appellant, and Chris Grove, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A083097 The People,
 v.
 Robert Bruce Lamb.
Cause called and argued by Scott Alan Sugarman, counsel for appellant, and Nanette Winaker, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A083699 The People,
 v.
 Jeremy John Foster.

A086456 In re Jeremy J. Foster on Habeas Corpus.
Cause called and argued by Richard Neuhoff, counsel for appellant, and Nanette Winaker, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A083415 Caryl Jessica Kerollis,

A084708

v.
Department of Motor Vehicles.

v.
Department of Motor Vehicles.

v.
Department of Motor Vehicles.

appearance by Stephen Abbott, counsel for respondent. Cause ordered submitted.

COURT OF APPEAL
STATE OF CALIFORNIA

Thursday September 16, 1999

DIVISION ONE

up.

The order denying appellant Stroup's motion for exemption from execution 1998, arrest and held by the Sonoma County Sheriff's Department is reversed. The property is exempt. Both parties shall bear their own costs on appeal.

A083934 -- Walter Daman, as Trustee, etc., v. Donald Becker et al., Barber McGuire et al.

Marchiano, J. We concur: Stein, J., Acting P.J., Swager, J. (Not for Publication.)

DIVISION TWO

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J.

A088183 -- Ernest Jerome Echols v. The Superior Court of San Mateo County; The People of the State of California, R.P.I.

Petitioner should seek relief in the San Mateo County Superior Court. Kline, P.J.

Thursday September 16, 1999 (continued)

A088203 -- Sonny Ray Hardaway v. The Superior Court of Alameda County; The People of the State of California, R.P.I.

By The Court: The petition for writ of mandate is denied. Judgment having been entered, petitioner's remedy, if any, is by way of appeal. Kline, P.J.

A080087 -- The People v. Randy Curtis Scott.

For the foregoing reasons, the judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A084209 -- The People v. Jose Alvaro Martinez.

The judgment is affirmed. Haerle, J., Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A088230 -- In re Antwayne Ramont Quarrells, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

A088212 -- In re Gary Eugene Kukes, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

A088277 -- Michael Etchison v. The Superior Court off San Mateo County; The People of the State of California, R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Kline, P.J.

DIVISION FOUR

A083702 -- The People v. Brent Nelson.

The judgment is affirmed. Poché, J., Acting P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, September 16, 1999

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P. J., Haerle, J., Ruvolo, J. and S. Graham, Deputy Clerk.

- A086084 In re the Marriage of Candace and Thomas Kahan.
A083969 Candace W. Kahan
 v.
 Thomas E. Kahan
Cause called and argued by Thomas E. Kahan, appellant in propria persona and Bernard Wolf, counsel for respondent. Causes ordered submitted.
- A083843 The People
 v.
 Shahram Nabavi
Cause called and argued by Spencer Strellis, counsel for appellant and Juliet Haley, Deputy Attorney General, counsel for appellant. Cause ordered submitted.
- A083657 George Straggas
 v.
 Wilbur Ellis Company
Cause called and argued by Gilbert Purcell, counsel for appellant and Patrick Becherer, counsel for respondent. Cause ordered submitted.
- A083251 Florendo N. Ancheta, Jr., et al.
 v.
 Westborough Homeowners Improvement Association
Cause called and argued by David J. Friedenberg, counsel for appellant and Kimberly Swain, counsel for respondents. Cause ordered submitted.
- A084901 David John Oranen, D.C.

v.

The Board of Chiropractic Examiners, et al.

Cause called. Jana I. Tuton, Deputy Attorney General appeared on behalf or respondents. No appearance was made on behalf of appellant.

Argument deemed waived and the cause was ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

At this point in the proceedings, Presiding Justice Kline announced that the panel on the first two cases would be himself and Justices Haerle and Ruvolo and that the panel on the remaining cases would not include himself.

A080915 The People

v.

Lawrence Alan Marshall

A084064 In re Lawrence Alan Marshall, on Habeas Corpus.

Causes called and argued by Robert Y. Bell, counsel for appellant and Linda Murphy, Deputy Attorney General, counsel for respondent. Causes ordered submitted.

A083640 In re the Marriage of Jerry and Guadalupe Lucas

Jerry Lucas

v.

Guadalupe Lucas

Cause called and argued by Paul R. Kleven, counsel for appellant and David S. Levinson, counsel for respondent. Cause ordered submitted.

A084470 Bergen Brunswick Drug Co.

v.

Barbara Sloban

Cause called and argued by Jamie L. Wine, counsel for appellant and Joseph W. Bell, counsel for respondent. Cause ordered submitted.

A085560 Robert Marx, et al.

v.

Board of Directors of Bel Marin Keys Community

Services District

Thomas W. Birmingham, counsel for respondent. Cause ordered submitted.

Eric Armitage
v.

Cause called and argued by Eric R. Armitage, appellant in propria persona and Steven Dahm, counsel for respondent. Cause ordered submitted.

COURT OF APPEAL
STATE OF CALIFORNIA

Friday September 17, 1999

DIVISION ONE

California Indemnity Insurance Company.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J.,

DIVISION TWO

A083084 -- Carol Ann Levine v. Regents of the University of California

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J.
(Not for Publication.)

of San Mateo County; Arben Dosti and Reza Eslaminia, R.P.I.

By The Court: the petition for writ of mandate/prohibition/stay is denied.

A082288 -- The People v. Artemio Cortez-Ochoa.

The
(Not for Publication.)

A083419 -- The People v. Carlos Ray Blocker.

argued. The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

Friday September 17, 1999 (continued)

DIVISION THREE

A085236 -- The People v. Calvin E. Burns.

The judgment is affirmed. Corrigan, J. We concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A080890 -- The People v. Shepard Scott Sanders.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

A087825 -- Janice H. v. The Superior Court for the County of Alameda; Social Services Agency et al., R.P.I.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The request for stay of the section 366.26 hearing, set for October 8, 1999, is denied. Our decision is final immediately. (Cal. Rules of Court, rule 24(d).) Corrigan, J., Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A080275 -- U.S. Capital Insurance Company et al., v. Kim McMillon.

The judgment is affirmed. Hanlon, P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA

Monday, September 20, 1999

DIVISION ONE

America..

Stolar failed to amend his complaint to allege detriment compensable under opportunities to do so. Where the plaintiff has elected to stand on his complaint after making only minor changes in the wording of a cause of action, we presume *Schick v.* (1987) 193 Cal.App.3d 1321, 1327.) The trial court therefore properly sustained Sony's The judgment is affirmed. Sony is awarded its appellate costs. for Publication.)

A083283 -- Judith Huff v. Lisa Matth

Accordingly, the judgment is reversed and the case is remanded to the trial court for retrial, with directions to admit and consider the evidence of the acts of are to bear their own costs on appeal. Swager, J. We concur: Strankman, P.J.,

DIVISION THREE

A084438 -- The People v. Arthur Johnson.

Walker, J. (Not for Publication.)

Monday September 20, 1999 (continued)

A076289 -- Ira Eisenberg v. Alameda Newspapers, Inc., et al.

The judgment is affirmed. Appellant Eisenberg shall pay respondents' costs on appeal. McGuiness, P.J. We concur: Corrigan, J., Walker, J. (Certified for Publication.)

DIVISION FOUR

A077561, A079071 -- Pan Asia Venture Capital Corporation v. The Hearst Corporation et al.

Order modifying opinion and denying rehearing ; [No Change in Judgment]
By the Court: The opinion filed herein on August 20, 1999, is modified as follows: (SEE ORDER). These modifications do not effect a change in the judgment. The petitions for rehearing are denied. The request to publish part III of the opinion is denied. Hanlon, P.J. (Certified for Partial Publication.)

A084467 -- The People v. Anthony Lamont Williams.

Appellant was represented by counsel throughout the proceedings. There was no sentencing error. There are no issues that require further briefing. The judgment is affirmed. Hanlon, P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A082611 -- Commerce & Industry Insurance Company v. Chubb Custom Insurance Company.

The Court: This court on its own motion grants rehearing. Appellant Commerce & Industry Insurance Company's application for an extension to file a petition for rehearing is granted. Both petitions for rehearing are denied as moot in light of this court's order granting rehearing on its own motion. The cause is ordered resubmitted again. Poché, Acting P.J.

Monday, September 20, 1999 (continued)

DIVISION FIVE

A084565 -- In re Cristian C., a Person Coming Under the Juvenile Court Law.

There was no error in the disposition. There are no legal issues that require further briefing. The order adjudicating appellant a ward of the court pursuant to Welfare and Institutions Code section 602 and committing him to the CYA is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL

FIRST APPELLATE DISTRICT

Tuesday September 21, 1999

A080472/81725 -- Associated Students of the City College of San Francisco v. Board of Trustees of the San Francisco Community College

The judgment is reversed. Each party is to bear its own costs on appeal.

A084636 -- In re Michael P., a Person Coming Under the Juvenile Court Law.

We concur: Swager, J.,

Marchiano, J. (Not for Publication.)

A082688 -- Ohio National Life Assurance Corporation v. Edward J. Mitchell et al.

(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION THREE

Tuesday, September 21, 1999

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Corrigan, J., Walker, J., Parrilli, J., and I. Calanoc, Deputy Clerk.

- A082149 The People,
A085654 v.
 Fernandez Fernando Dominguez.
 Cause called and argued by Tara Mulay, counsel for appellant, and Deputy Attorney General Karl Mayer, counsel for respondent. Cause ordered submitted.
- A082764 San Francisco Newspaper
 Printing Company, Inc.,
 v.
 United States Fire Insurance
 Company, et al.
 McGuiness, P.J. took his place on the bench and announced that Walker, J., Parrilli, J. and himself will be participating in this case. Cause called and argued by Thomas Carnes, counsel for appellant, and Chris Kiety, counsel for respondent. Cause ordered submitted.
- A079367 Timothy P. Hill,
 v.
 Sutter/CHS, Inc., et al.
 Cause called and argued by Phillip Kay, counsel for appellant, and Maureen McClain, counsel for respondent. Cause ordered submitted.
- A084465 The People,

v.

Gerardo Alvarez Valencia.

The court reconstituted itself to include Corrigan, J., McGuiness, P.J. and Walker, J. Cause called and argued by Kathryn Seligman, counsel for appellant, and Deputy Attorney General Michael Bannister, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

COURT OF APPEAL
STATE OF CALIFORNIA

DIVISION THREE

Tuesday, September 21, 1999

San Francisco, California.

Present: McGuiness, P.J., Corrigan, J, Parrilli, J. Walker, J., and C. Turner, Deputy Clerk.

A083617 Sateesh Aptee, M.D.,

Steven D. Mayer, et al.,

Cause called and argued by Kenneth R. Bauer, counsel for appellant, and

Justice Parrilli not participating on the following case.

A081854

Klaus Schreyack,

v.

Cause called and argued by Richard Leonard Katz, counsel for appellant,
and Ron Malone, counsel for respondent. Cause ordered submitted.

A083228 The People,

Byron Robin Poe,

Cause called and argued by Tamara Holland, counsel for appellant, and

Cause ordered submitted.

The following cases argument was waived and cases were submitted.

A084244 People v. Keith R.

A080559 People v. Steadham

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, September 22, 1999

DIVISION ONE

A076016 -- Patricia A. McColm v. Carter Hawley Hale, Inc., et al.

For all of the above reasons we conclude that the many contentions made by McColm lack merit. The judgment is affirmed. The order denying the motion to vacate judgment and enter a new judgment, which we construe as including the denial of McColm's motion for a new trial, is affirmed. Stein, Acting P.J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

A084997 -- William Chester Barton, an Incompetent Person, etc., v. William L. Veen.

The judgment is affirmed. The parties shall bear their own costs on appeal. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

A086066 -- Central Parking System of California, Inc., et al., v. Port of Oakland et al.

The order awarding attorney fees is affirmed. Costs on appeal are awarded to Central. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A087778 -- Lawrence Spanier v. The Superior Court of Contra Costa County; Pamela Spainer, R.P.I.

By the Court: The petition for writ of mandate is denied. Kline, P.J.

A088344 -- In re J. Benjamin, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Wednesday, September 22, 1999 (continued)

A083052 -- The People v. Ramero Darnai Russell.

(Not for Publication.)

DIVISION THREE

Court Law.

The petition for writ relief is denied on the merits. The matter may proceed
McGuiness, P.J., Walker, J. (Not for Publication.)

A084244 -- In re Keith R., a Person Coming Under the Juvenile Court

The judgment is affirmed as to counts one, two, three, and four, and
reversed as to count five. Parrilli, J. We concur: Corrigan, Acting P.J., Walker, J.

A084898 -- The People v. Miguel Garza Trevino.

The judgment is affirmed. Parrilli, J. We concur: McGuiness, P.J.,

A083228 -- The People v. Byron R. Poe.

The judgment is affirmed. Corrigan, J. We concur
Parrilli, J. (Not for Publication.)

A085561_-In re Ivan D., a Person Coming Under the Juvenile Court

We affirm the trial court's order. Walker, J. We concur: Corrigan, Acting
P.J., Parrilli, J. (Not for Publication.)

Wednesday, September 22, 1999 (continued)

A085325 -- In re Christopher P., a Person Coming Under the Juvenile Court Law.

Substantial evidence supports both the jurisdictional and dispositional orders. No other error appears in the record. Consequently, the judgment is affirmed. Parrilli, J. We concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

DIVISION FIVE

A085053 -- Giles Grosgrin et al., v. Gerald Chapman et al.

A086381 -- Gerald Chapman et al., v. The Superior Court of San Mateo County; Gilles Grosgrin et al; R.P.I.

The order awarding sanctions to plaintiffs is reversed. The order to show cause is discharged, and the petition for writ of mandate is denied. The parties shall bear their own costs. Haning, J. We concur: Jones, P.J., McGuiness, P.J.* (Not for Publication.) *Presiding Justice, Division Three of the First District Court of Appeal, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

COURT OF APPEAL
STATE OF CALIFORNIA

Thursday, September 23, 1999

DIVISION ONE

Court Law.

The matter is remanded to the juvenile court to make the determination offense to be a misdemeanor, then the juvenile court shall recalculate the maximum theoretical period of confinement. In all other respects, the order under Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

The judgment is hereby modified to reflect that the concurrent term imposed on count four, receiving stolen property, is stayed pursuant to section reflecting this modification and forward a certified copy of the corrected abstract to the Department of Corrections. The judgment, as modified, is affirmed.

A084474 -- In re Andre M. et al., Persons Coming Under the Juvenile Court Law.

the supplemental petition, is affirmed. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

Thursday, September 23, 1999 (continued)

A086345 -- The People v. National Travel Services, Inc., et al.

Paragraph one, regarding offers which include attendance at a sales presentation is unsupported by any evidence and is, therefore, stricken from the order granting a preliminary injunction. Paragraph 9, regarding violations of sections 17200 and 17500 is too ambiguous to give fair notice of the conduct which violates the law and is also stricken. As modified, the order granting the preliminary injunction is affirmed. The parties shall bear their own costs. Marchiano, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A085305 -- The People v. Kim V. Vu.

We find no meritorious issues to be argued. The judgment is affirmed. Marchiano, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

DIVISION THREE

A081854 -- Estate of Lydia Kalmanovitz, Deceased.

The judgment is affirmed. Respondent's motion for sanctions is denied. Corrigan, J. We concur: McGuiness, P.J., Walker, J. (Not for Publication.)

A084465 -- The People v. Gerardo Alvarez Valencia.

The judgment is affirmed. Corrigan, J. We concur: McGuiness, P.J., Walker, J. (Not for Publication.)

A082047 -- The People v. Dennis Leroy Waldo.

We affirm. Walker, J. We concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A080559 -- The People v. Anthony Steadham.

The judgment is affirmed. Corrigan, J. We concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A073615 & A084095 -- The People v. David Dellosso Shore.
Order Modifying Opinion and Denying Rehearing [No Change in Judgment] By
modified as follows: (SEE ORDER.) The petition for rehearing is denied. There
is no change in the judgment. McGuiness, P.J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Thursday, September 23, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: Walker, J., Corrigan, J., Parrilli, J. and I. Calanoc, Deputy Clerk.

A083941 Alexander Kigel,

v.

Ina Dell Nash.

Cause called and argued by Ronald Schneider, counsel for appellant, and Joseph Devine, counsel for respondent. Cause ordered submitted.

A083680 The People,

A086853 v.

Christopher Owens.

Cause called and argued by Jonathan Soglin, counsel for appellant, and Deputy Attorney General Christopher Grove, counsel for respondent. Cause ordered submitted.

A082943 The Insurance Company of the
State of Pennsylvania,

v.

Argonaut Insurance Company, et al.

The court reconstituted itself to include McGuiness, P.J., Corrigan, J., and Walker, J. Cause called and argued by Edward Krugman, counsel for appellant, and Mitchell Lathrop, Joseph Mascovich, Sanford Kingsley, Gregory Scher, counsel for respondents. Cause ordered submitted.

A084164 Carole Wright,

v.

Jay W. Wright.

The court reconstituted itself to include McGuiness, P.J., Corrigan, J. and Walker, J. Cause called and argued by G. Martin Velez, counsel for appellant, and Morry Langer, counsel for respondent. Cause ordered submitted. At this point, Corrigan, J. left the bench.

A084652 Jerry Foster,
 v.
 City of Napa.
McGuiness, P.J. announced that the panel would include Parrilli, J.,
Walker, J. and himself. Cause called and argued by Charles Marx, counsel
for appellant, and Thomas Brown, counsel for respondent. Cause ordered
submitted.

A083579 Alexis Irizari,
 v.
 Mercedes Benz of North America.
Cause called and argued by Dean Lloyd, counsel for appellant, and Ronald
Frank, counsel for respondent via teleconference. Cause ordered
submitted.

Court adjourned.

MINUTES

STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION ONE

A084208 -- The Pe

Accordingly, the judgment is affirmed. Swager, J., We concur:
Strankman, P.J., Marchiano, J (Not for Publication.)

The judgment is reversed and respondent's action for breach of
employment contract and to enforce the first subcommittee decision to reinstate
administrative appeal of the second decision of the subcommittee to sustain his
termination. Swager, J. We concur:
Stein, Acting P.J., Marchiano, J. (Not for Publication.)

A084430 -- The People v. Efren Mora.

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J.
Ruvolo, J. (Not for Publication.)

DIVISION FIVE

The summary judgment and the order denying the motion for new trial are
affirmed. Costs to respondent. Haning, J. We concur: Jones, P.J., Stein, J.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday September 27, 1999

DIVISION ONE

A085420 -- People of the State of California v. Henry Houston Ganter.

By the Court: The request for permission to allow certified law student to present oral argument is granted. Swager, Acting P.J.

DIVISION TWO

A086687 -- The People v. Spencer Allan Thompson.

The judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A084730 -- Jack McLaughlin et al., v. State Board of Education et al.

The writ of mandamus granted by the trial court is hereby reversed. the case is remanded to the trial court with directions to vacate its writ, and instead to issue an order denying the petition. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Certified for Publication.)

A084652 -- Jerry Foster v. City of Napa et al.

The judgment is affirmed. Respondents shall recover their costs on appeal. Parrilli, J. We concur: McGuiness, P.J., Walker, J. (Not for Publication.)

Monday September 27, 1999 (continued)

DIVISION THREE

The judgment is reversed. Apte shall recover his costs on appeal. Parrilli, J. We concur: McGuiness, P.J., Walker, J. (Not for Publication.)

The order is affirmed. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

e of Carole Wright and Jay W. Wright.

The order is affirmed. Wife shall recover her costs on appeal. Parrilli, J.

DIVISION FOUR

A083926 -- City and County of San Francisco v. Emman

The judgment is affirmed. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Certified for Publication.)

Court Law.

The order terminating parental rights is affirmed. R Haning, J., Sepulveda, J. (Not for Publication.)

A084595 -- The People v. Daniel Lee Herman.

inconsistent with this opinion. Hanlon, P.J. We concur: Poché, J., Sepulveda, J. (Not for Publication.)

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stein, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, September 28, 1999

DIVISION TWO

A088395 -- In re Ascencion Torres Hurtado on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. (See The People v. Bruner (1995) 9 Cal.4th 1178.) Kline, P.J.

A083419 -- The People v. Carlos Ray Blocker.

Order Modifying Opinion. By the Court: it is ordered that the opinion filed herein on September 17, 1999, be modified in the following particulars:

- 1). On page 10, line 2, footnote 6 is deleted. Kline, P.J.

A083848 -- The People v. Hector Ramos.

The judgment is reversed. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A083640 -- In re Marriage of Jerry Lucas and Guadalupe Lucas.

The judgment of the trial court is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A083910 -- The People v. Douglas Robert Thomas.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A088420 -- David Snowden, et al., v. The Superior Court of Sonoma County; Fire Insurance Exchange, R.P.I.

By the Court: The petition for writ of mandate/stay is denied. Kline, P.J.

DIVISION THREE

A084176 -- In re Jamar L., a

The judgment is affirmed with exception of count six, which is reversed.
The case is remanded to the juvenile court for correction of the order of

(Not for Publication.)

A084869 -- In re the Marriage of Robert and Judy Casteel.

his costs on appeal. (Cal Rules of Court, rule 26(a).) Corrigan, J. We concur:
McGuiness, P.J., Parrilli, J. (Not for Publication.)

& A086853 -- The People v. Christopher Owens.

A06853 is dismissed as moot.

Corrigan, Acting P.J. . We concur: Parril
Publication.)

DIVISION FOUR

A084188 -- In re Douglas William Hysell, on Habeas Corpus

The judgment is affirmed. The petition for habeas corpus is denied.

**A087986 -- Raydal W., v. The Superior Court of Solano County;
Solano County Health and Social Services Department.**

366.26 complies with governing law and is supported by substantial evidence.
The petition for an extraordinary writ is denied on the merits. (See § 366.26, subd.
(1); Cal. Rules of Court, rule 39.1B(o)

Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, September 28, 1999

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Poche, J. and Reardon, J.; Channing Hoo, Deputy Clerk; Lorrie Kempf, Bailiff.

A084485 Richard D. Wilson et al.
 v.
 State Board of Education
 California Network of Educational Charters
Cause called. Lynn S. Carman argued for appellants Wilson et al. Douglas M. Press argued for respondent State. Joseph Remcho argued for respondent California. Cause submitted.

At this point, the court reconstituted itself to include Hanlon, P.J., Reardon, J. and Sepulveda, J.

A083591 Philip A. Norton
 v.
 Kaiser Gypsum Company, Inc. et al.
Calendared for 10 a.m. Cause called at 10:03 a.m. Claudia Martin appeared for appellant. No appearance for respondent. Cause continued.

A084930 In re Daniel R., a minor.
 People
 v.
 Daniel R.
Cause called. Jonathan Soglin argued for minor appellant Daniel R. Ross Moody argued for respondent. Cause submitted.

A083591 Philip A. Norton
 v.
 Kaiser Gypsum Company, Inc. et al.
Calendared for 10 a.m. Cause called again at 10:13 a.m. Claudia Martin argued for appellant Norton. No appearance for respondent. Cause submitted.

At this point, the court reconstituted itself to include Poche, Acting P.J., Reardon, J. and Sepulveda, J.

A084732 Kenneth Keltner et al.

v.

City of Eureka

Cause called. Geoff Spellberg argued for appellants Keltner et al. Paul
Brisso argued for respondent. Cause submitted.

The Court adjourned at 11:35 a.m.

MINUTES
COURT OF APPEAL
FIRST APPELLATE DISTRICT
Wednesday, September 29, 1999

A085438 -- The People v. Ray Harry Wertz III.

Appellant was represented by counsel throughout the proceedings. There judgment is affirmed. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

Board and Richard Brenten.

The Court: The petition for writ of review is denied. The request of section 5801 for an award of a supplemental attorney's fee is denied. Respondent may apply to the Board for determination of reasonable appellate costs to be paid *Johnson v. Workers' Comp. Appeals Bd.* (1984) 37 Cal.3d 235, 242.) Strankman, P.J.

A079863 -- Marilyn Merrill et al., v. Navegar, Inc.

For the foregoing reasons, the judgment granting summary judgment as to judgment is affirmed. Appellants are awarded costs on appeal. Kline, P.J. See concurring opinion of Lambden, J. See concurring opinion in part and dissenting

A084058 -- Robert G. Perez et al., v. Cree Edwards et al.

The judgment for respondents is reversed. Costs are awarded to appellants.

Wednesday, September 29, 1999 (continued)

A085589 -- The People v. Ivan R. Carter.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J.
(Not for Publication.)

A084508 -- The People v. Kenneth Malcolm Robinson.

Appellant was represented by council throughout the proceedings.
There was no sentencing error. There are no issues that require further briefing.
The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not
for Publication.)

A086096 -- The People v. Vernoy Ezell Jones.

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J.,
Lambden, J. (Not for Publication.)

DIVISION THREE

A086115 -- The People v. Clifford Edward Hudson.

The judgment is affirmed. McGuiness, P.J. We concur: Corrigan, J.,
Parrilli, J. (Not for Publication.)

Wednesday, September 29, 1999

A085470 -- In re George B., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Parrilli, J. We concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A084256 -- The People v. TerryLee Brewer.

The judgment is affirmed. Parrilli, J. We concur: McGuiness, P.J., Walker, J. (Not for Publication.)

DIVISION FOUR

A083591 -- Phillip A. Norton v. Kaiser Gypsum Company, Inc., et al.

We affirm the judgment. Reardon, J. We concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

A082146 -- The People v. Rony V. Gomez.

The convictions are affirmed, the sentence is reversed and the matter is remanded for resentencing. Hanlon, P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

DIVISION FIVE

A085614 -- County of Mendocino v. Jason Stevens, Curtis Allen, Curtis Allen v. Deborah Hermann Anderson, Deborah Hermann Anderson v. Curtis Allen.

The judgment is affirmed. Costs to respondent. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

Wednesday, September 29, 1999 (continued)

A084557 -- Sara Duryea et al., v. Judith H.B. Cohen et al.

The judgment is reversed as to Kathryn and George, and affirmed as to James III and Sara. The parties shall bear their own costs on appeal. Haning, Acting P.J. We concur: Stevens, J., Marchiano, J.* (Not for Publication.) Associate Justice, Division One of the First Appellate District Court of Appeal, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A085477, A085482, A085486, A085488, A085495, A085496, A085501, A085502, A085761 -- The Hartwell Corporation et al., v. The Superior Court of Ventura County; Kristin Santamaria et al., R.P.I.

By the Court: It is ordered that the opinion filed herein on September 1, 1999, be modified as follows: (SEE ORDER). The petitions for rehearing are denied. This order does not effect a change in the judgment. Jones, P.J. (Certified for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

September 29, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Haning, J., and Stevens, J.; and Mary P. Quilez, Deputy Clerk.

- A082651 Billy Armstrong
A082815 v.
 Exxon corporation
 Cause called and argued by Philip A. Harley, counsel for appellant, and by Susan A. Ogdie, counsel for respondent. Cause ordered submitted.
- A084366 John Doe
 v.
 USCF Medical Center
 Cause called and argued by Eric M. Safire, counsel for appellant, and by Michael C. Scanlon, counsel for respondent. Cause ordered submitted.
- A085467 John Doe
 v.
 Stephen O'Brien, M.D.
 Cause called and argued by Eric M. Safire, counsel for appellant, and by Michael Joseph Fitzsimons, counsel for respondent. Cause ordered submitted.
- A084157 Estate of Joseph Lorenz.

 Leroy J. Lounibos, Jr.
 v.
 Amelia Kressler, et al
 Cause called and argued by George J. Keller, counsel for appellant, and by Joseph Corbett Tenney, counsel for respondent. Cause ordered submitted.

A084982	<p>Thomas A. King, et al v. Thomas C. Clark Cause called and argued by Michael Stuart Strimling, counsel for appellant, and by Karen K. Roberts, counsel for respondent. Cause ordered submitted.</p>
A085684	<p>Thomas C. Clark v. Val King Cause called and argued by Michael Stuart Strimling, counsel for appellant, and by Karen K. Roberts, counsel for respondent. Cause ordered submitted.</p>
A085196	<p>Verl's Construction, Inc. v. County of San Mateo Cause called and argued by Miruni Soosipillai, counsel for appellant, and by Gregory Randolph Kasten, counsel for respondent. Cause ordered submitted.</p>
A084918	<p>Local 21 of the International Federation of Professional and Technical Engineers v. City and County of San Francisco, et al Cause called and argued by Duane Westlee Reno, counsel for appellant, and by Linda Margaret Ross, counsel for respondent. Cause ordered submitted.</p>
A071743 A074712	<p>Pedro Garcia v. David Pope Cause called and argued by David Pope, appellant in pro per, and by Robert A. Fowler, counsel for respondent, argued by teleconference. Cause ordered submitted.</p>
A085723	<p>Vallejo Ridgcrest Homeowners Association v. City of Vallejo, et al Cause called and argued by Stuart M. Flashman, counsel for appellant, and by John J. Pomidor, counsel for respondent. Cause ordered submitted.</p>

- A084212 Dennis Roberts
 v.
 Pacific Bell
Cause called and argued by Mark Russell Thierman, counsel for appellant,
and by James D. Newman, counsel for respondent. Cause ordered
submitted.
- A082888 The People
 v.
 Chi Wai Anthony Mak
Cause called and argued by James E. McCready, counsel for appellant, and
by Ross Moody, Deputy Attorney General, counsel for respondent. Cause
ordered submitted.
- A085011 The People
 v.
 David Glenn Booth
Cause called and argued by Robert Lawrence Angres, counsel for
appellant, and by Herbert Wilkinson, Deputy Attorney General, counsel for
respondent. Cause ordered submitted.
- A083099 The People
 v.
 Craig Clifford Busch
Cause called and argued by Ozro Willaim Childs, counsel for appellant,
argued by teleconference, and by Dorian Jung, Deputy Attorney General,
counsel for respondent. Cause ordered submitted.

Court adjourned at 1:20 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, September 30, 1999

DIVISION ONE

A081974 -- Oscar Dillard et al., v. Trailer Train Co., et al.

Accordingly, the judgment is affirmed. Swager, J., We concur:
Strankman, P.J., Stein, J. (Not for Publication.)

A086056 -- The People v. Ikamoana Saimone Pauli.

The judgment is affirmed. Marchiano, J. We concur:
Strankman, P.J., Swager, J. (Not for Publication.)

A085427 -- The People v. Benjamin Legree.

Accordingly, the judgment is affirmed. Swager, J. We concur: Stein,
Acting P.J., Marchiano, J.

A084867 -- The People v. Ranger Insurance Company.

We therefore conclude that the trial court did not err by failing to declare
bail forfeiture on the record. Accordingly, the judgment is affirmed. Swager, J.
We concur: Strankman, P.J., Marchiano, J.

DIVISION TWO

**A086359 -- In re Duong L., a Person Coming Under the Juvenile Court
Law.**

The jurisdictional order is modified to sustain only the allegations of the
second count of the petition and, as so modified, is affirmed. In the absence of
any challenge to the dispositional order, that order is also affirmed. Kline, P.J.
We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Thursday, September 30, 1999 (continued)

A085346 -- William H. Brown, Jr. et al., v. Franchise Tax Board.

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

DIVISION THREE

A079367 -- Timothy P. Hill v. Sutter/CHS et al.

We conclude that the trial court was correct in granting summary judgment on the ground there is no triable issue of material fact as to the validity of the Release in which appellant waived all claims against respondents. In view of our decision that the Release was valid, enforceable, and not voidable by rescission, we need not address the issues whether there were any triable issues of material fact concerning either appellant's ratification of the Release, or the effect of appellant's alleged resumé fraud as "after-acquired evidence" justifying his termination. The judgment is affirmed. Appellant shall pay respondents' costs on appeal. McGuinness, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A087884 -- Jolene D., v. The Superior Court of Sonoma County; Sonoma County Human Services Department, R.P.I.

The petition for extraordinary relief is denied on the merits. Walker, J., We concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

A082764 -- San Francisco Newspaper Printing Company, Inc., v. United States Fire Insurance Company et al.

We affirm the trial court's order denying summary judgment for the Agency and granting summary judgment for U.S. fire. Walker, J. We concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

A086039 -- The People v. Don Emory Davison.

Affirmed. Walker, J. We concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Thursday, September 30, 1999 (continued)

A084459 -- The People v. Ronald David Vigil.

The judgment is affirmed. McGuiness, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

A082658 -- The People v. Cedric Tyrone Green.

Appellant also contends that the court erred by giving the CALJIC 2.90 instruction on reasonable doubt. He argues that the instruction's omission of the term, "moral certainty" unconstitutionally lessened the prosecution's burden of proof. This argument has been conclusively rejected by every appellate court that has considered it. (See *People v. Craig* (1998) 65 Cal.App.4th 1082, 1093, and cases cited therein.) We are satisfied that the trial court did not err by giving the instruction. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

A084930 -- In re Daniel R., a Person Coming Under the Juvenile Court Law.

The order of probation is affirmed. Sepulveda, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A082499 -- The People v. Leo Adam Somersall.

A087215 -- In re Leo Adam Somersall on Habeas Corpus.

For all the foregoing reasons, the sentencing order is vacated and the cause remanded for resentencing. In all other respects, the judgment of conviction is affirmed, and the petition for writ of habeas corpus is denied. Sepulveda, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

A085018 -- Patricia Ann Fairbank v. City of Mill Valley et al.; Jack Lee et al., R.P.I.

For all the foregoing reasons, the judgment of the trial court is affirmed. The parties shall bear their own costs. Sepulveda, J. We concur: Reardon, J., Poché, Acting P.J. (Certified for Partial Publication.)

Thursday, September 30, 1999 (continued)

A086816 -- In re Leo Adam Somersall on Habeas Corpus.

affirmed as to count two (for the robbery of Colchado) and reversed as to counts one (for the murder of Garcia) and three (for the aggravated assault upon

the murder conviction, the sentence is vacated and the matter is remanded for further proceedings consistent with this opinion. Appellant's petition for habeas

Poché, J. (Certified for Publication.)

A083579 -- Alexis Irizari v. Mercedes-Benz of North America, Inc.

We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FIVE

Alameda County Social Services Agency, R.P.I.

The motion to augment the record is granted. The request for a stay is

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; v. *Howard* *Bay Development, Ltd.* (1990) 50 Cal.3d 1012, 1024.) Because the section 366.26 hearing is set for October 4, 1999, our decision is final in this court immediately.

Stevens, J. We concur: Jones, P.J., Haning, J.

(Not for Publication.)

The judgment of conviction is affirmed. Stevens, J. We concur: Jones,